

JUDGE DAVID GUADERRAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MIGUEL A. MARES,

Plaintiff,

v.

NGUYEN HUU NGUYEN and
TRIGO EXPRESS, LLC,

Defendants.

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EP 17 CV 0353

Case No. EP-17-CV-

FILED

NOV 21 2017

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 11/21/17 DEPUTY

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW, NGUYEN HUU NGUYEN and TRIGO EXPRESS, LLC, ("Defendants") the two Defendants herein, and pursuant to 28 U.S.C. §1446, hereby timely give their Notice of Removal of this cause to the United States District Court for the Western District of Texas, El Paso Division. The Defendants respectfully state the following grounds for removal:

1. On March 20, 2017, the above-named Plaintiff, Miguel A. Mares, filed his Original Petition in the El Paso County District Clerk's Office, which was assigned civil cause of action number 2017DCV0917 in the 327th Judicial District Court of El Paso County, Texas. Plaintiff then filed his First Amended Petition on November 15, 2017, suing both Defendants herein, alleging negligence claims for personal injury damages arising out of an alleged tractor trailer vehicle accident that occurred in the City of El Paso, El Paso County, Texas, on February 23, 2016. A true and correct copy of Plaintiff's First Amended Petition is included among the pleadings in the underlying State Court case that are attached hereto as "Exhibit A," and is incorporated by reference the same as if fully set forth at length herein.

2. Defendant Nguyen Huu Nguyen was served with summons and Plaintiff's Original Petition on May 16, 2017, and he filed his Original Answer on November 8, 2017. Thereafter, on November 15, 2017, Plaintiff then filed his First Amended Petition, joining Co-Defendant Trigo Express, LLC, as the new Co-Defendant in said State Court Action. On November 17, 2017, Defendant Trigo Express, LLC filed its Original Answer. Therefore, this Notice of Removal is properly filed within the thirty (30) day period for the filing of a Notice of Removal in this case, and within one year of commencement of the suit, pursuant to 28 U.S.C. § 1446(b).

Diversity Jurisdiction

3. Defendants show that this Honorable Court has diversity jurisdiction over the above-entitled action pursuant to 28 U.S.C. § 1332 and the action may be properly removed to this Court pursuant to 28 U.S.C. § 1441(b). The Plaintiff is a citizen of the State of Texas. Defendant Nguyen Huu Nguyen is an individual citizen of the State of Arizona. Co-Defendant Trigo Express, LLC is a California Limited Liability Company, incorporated in and under the laws of the State of California, with its principal place of business in the State of California, and thus, is a corporate citizen of the State of California. The alleged amount in controversy in this case, as expressly claimed in Plaintiff's Amended Petition, exceeds \$200,000.00 (excluding interest and court costs). 28 U.S.C. § 1332(a) (*See* pages 4 & 5 of Plaintiff's First Amended Petition, included among the pleadings in the underlying State Court case that are attached hereto as "Exhibit A"). There is complete diversity of citizenship between and among the Plaintiff and the Defendants herein, and the amount in controversy exceeds the minimum jurisdictional limit of this Honorable Court.

4. Attached to this Notice of Removal, and incorporated by reference the same herein as if fully set forth at length, are true and correct copies of all pleadings, process, orders and other filings in this action in State Court that were indexed in the El Paso County District Clerk's Official File

for this suit, as of the date this Notice of Removal was filed, pursuant to 28 U.S.C. §§1446(a)(b) and §1449, attached hereto as “Exhibit A.”

5. Defendants further show that venue for this removal is proper in this United States District Court for the Western District of Texas - El Paso Division under 28 U.S.C. §§1441(a) and 1446(a) because the State Court where the underlying suit has been pending is located in this District and Division.

6. Plaintiff made a jury demand in Plaintiff’s First Amended Petition filed in the State Court suit. (*See* page 4 of Plaintiff’s First Amended Petition).

7. Defendants are promptly filing, under separate cover, a copy of this Notice of Removal with the El Paso District Clerk’s Office in Cause no. 2017DCV0917, who will provide a copy of same to the Clerk of the 327th Judicial District Court of El Paso County, Texas.

8. Accordingly, and for the foregoing reasons and legal authority, removal of this action is proper pursuant to 28 U.S.C. § 1441(a).

WHEREFORE, PREMISES CONSIDERED, the Defendants **NGUYEN HUU NGUYEN and TRIGO EXPRESS, LLC**, hereby timely and properly file and submit their joint Notice of Removal of this case to this Honorable United States District Court for the Western District of Texas and respectfully request that the above-styled and numbered cause be removed from the 327th Judicial District Court of El Paso County, Texas, to this Honorable United States District Court for the Western District of Texas, and that this action proceed in this Honorable United States District Court as an action properly removed thereto.

Respectfully submitted,

**MOUNCE, GREEN, MYERS,
SAFI, PAXSON & GALATZAN**

A Professional Corporation

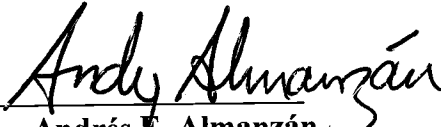
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Attorneys for Defendants
**NGUYEN HUU NGUYEN and
TRIGO EXPRESS, LLC**

CERTIFICATE OF SERVICE

I, Andrés E. Almanzán, certify that on this the 21st day of November, 2017, a true and correct copy of the foregoing document was traditionally and electronically-filed with the Clerk of the United States District Court in the above-captioned action pursuant to the Court's Electronic Notice Procedures and the CM/ECF system established for the United States District Court for the Western District of Texas, which will simultaneously send electronic-notification and a copy of same to the Plaintiff's registered Attorney of Record, to whom this document was also served via first class mail: James B. Kennedy, Jr., Esq., James Kennedy, P.L.L.C., 6216 Gateway Blvd., East, El Paso, Texas 79905, Attorneys for Plaintiff.


Andrés E. Almanzán